

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NUMBER 00-6312-Cr-ROETTGER

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LOWEN ESPINUEVA

Defendant.

JOINT MOTION FOR CONTINUANCE OF TRIAL DATE

The Defendant, **LOWEN ESPINUEVA**, by and through undersigned counsel, hereby files this Joint Motion for Continuance of Trial Date. In support, the Defendant states:

1. The Defendant is charged by indictment with a Conspiracy to Obstruct the Movement of Articles and Commodities in Commerce by Robbery, in violation of 18 U.S.C. section 1951(a) and 2, Attempted Obstruction of the Movement of Articles and Commodities in Commerce by Robbery, in violation of 18 U.S.C. 1951(a) and 2, and Using and Carrying a Firearm During and in Relation to a Crime of Violence Resulting in Serious Bodily Injury, in violation of 18 U.S.C. 924(c)(1) and 2.

2. This matter has been set for calendar call and trial on February 20, 2001.

3. The Defendant moves for a continuance of the trial date due to the fact that he has not completed his pretrial investigation and preparation, and because counsel for the Defendant has conflicts in his trial schedule.

4. On February 5, 2001, Barry M. Wax, counsel for the Defendant will be commencing trial in *State of Florida v. Tavares Daniels*, case number F99-18933A (Dennis), in



the Eleventh Judicial Circuit Court in and for Miami-Dade County Florida. In that case, the Defendant is charged with First Degree Murder, Attempted Armed Robbery, and Possession of a Firearm During the Commission of a Criminal Offense. The Defendant in that matter is eighteen years old, and has been in custody since 1999. It is anticipated that the trial in that case will last in excess of two weeks, and may not be concluded by the February 20, 2001 trial date scheduled in this matter.

5. Additionally, on March 12, 2001, Barry M. Wax, counsel for the Defendant is scheduled to commence trial in *United States of America v. Eduardo Lezcano, et al.*, case number 00-376-Cr-Lenard, in the United States District Court for the Southern District of Florida. That case involves four witness murders in the well known case of the *United States of America v. Sal Magluta and Willie Falcon, et al.* That matter was previously scheduled for trial by Judge Joan Lenard in August 2000. It is expected to last approximately thirty (30) days. As such, were counsel to proceed to trial in this matter on February 20, 2001, it would deprive him of valuable pretrial preparation time already scheduled in the *Lezcano* case.

6. The case at bar involves the attempted armed robbery of two Brinks armored truck drivers in Coral Springs, Florida. The investigation by the Coral Springs Police Department and the Federal Bureau of Investigation has been "forensic intensive", including ballistics and firearms evidence, fingerprint analysis, hair and fiber analysis, serological and DNA testing, fluorescein analysis of blood, gunshot residue analysis and voice stress testing. Although counsel has received expert witness summaries with respect to trace evidence, including but not limited to hair and fiber analysis, and firearms and other ballistics evidence, counsel is still awaiting additional expert witness summaries.

7. The primary evidence against the Defendant, Lowen Espinueva consists of



latent fingerprints found on items of evidence discovered at the various crime scenes. Counsel has requested production of the copies of the latent fingerprints of the Defendant and standard fingerprints utilized for comparison purposes. Counsel is in the process of locating and hiring an independent fingerprint expert to review the evidence and assist in the preparation of a defense. However, no expert has been located at this time who is willing to work for court-appointed rates.

8. Barry M. Wax, counsel for the Defendant has been receiving discovery from Thomas Lanigan, AUSA in a timely fashion - essentially as soon as the Government has received evidence they are forwarding it to the defense.

9. Pursuant to Local Rule 88.9 (g) of the United States District Court for the Southern District of Florida, Barry M. Wax, counsel for the Defendant hereby certifies that he has discussed this Motion for Continuance of Trial with Thomas Lanigan, AUSA who not only does not object to the motion being granted but joins in the motion.

WHEREFORE, the Defendant, Lowen Espinueva, moves this Honorable Court to grant this Joint Motion for Continuance of Trial.

Respectfully submitted,

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BY: 

Barry M. Wax
Florida Bar No. 509485



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed to Thomas Lanigan, Assistant United States Attorney, 500 East Broward Boulevard, Fort Lauderdale, Florida 33394 and Daryl Wilcox, Assistant Federal Public Defender, 101 N.E. 3rd Avenue, Suite 202, Fort Lauderdale, Florida 33301 on this 31st day of January, 2001.

BY: 

Barry M. Wax

Joint Motion for Continuance

